IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 2764 of 2006
To
FIRST APPEAL No. 2783 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE J.M.PANCHAL

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1 Whether Reporters of Local Papers may be allowed to see the judgment?

2 To be referred to the Reporter or not?

3 Whether Their Lordships wish to see the fair copy of the judgment?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge?

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SPL.LAQ OFFICER - Appellant
Versus
SHAKRIBEN WD/O ALUJI KARUJI & ORS. - Respondents

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Appearance :
MR SS SHAH, GP for Appellant in First Appeal Nos.2764 to 2774 of 2006 ***AND***
MS MINI NIAR, AGP for Appellant in First Appeal Nos.2775 to 2783 of 2006.
MR YATIN SONI for original claimants.
None for Respondent No.2.

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CORAM : HONOURABLE MR.JUSTICE J.M.PANCHAL

Date : 02/04/2007

ORAL JUDGMENT

What is challenged in these appeals filed under Section 54 of the Land Acquisition Act, 1894 ("the Act" for short) read with Section 96 of the Code of Civil Procedure, 1908, is the legality of common judgment and award dated August 21, 2004

rendered by the learned 3rd Extra Assistant Judge & Special Judge (L.A.R.), Ahmedabad (Rural) at Navranpugra, Ahmedabad, in Land Acquisition Reference Nos.326 of 1996 to 345 of 1996 by which the claimants have been awarded additional amount of compensation at the rate of Rs.30/- per square metre for their acquired lands over and above compensation awarded to them by the Special Land Acquisition Officer at the rate of Rs.1.50 Paise per square metre by his award dated July 30, 1994.

2. The Executive Engineer, Narmada Project, Division No.4/2, Sanand, made a proposal to the State Government to acquire agricultural lands of Village: Chharodi, Taluka: Sanand, District: Ahmedabad, for the public purpose of construction of Canal under Narmada Project. On perusal of the said proposal, the Government was satisfied that the lands of Village Chharodi mentioned in the said proposal were likely to be needed for the said public purpose. Therefore, a notification under Section 4 of the Act was issued, which was published in the official gazette on June 1, 1992. Thereafter, necessary inquiry under Section

5 of the Act was made and a report, as contemplated by Section 5-A(2) of the Act, was forwarded by the Special Land Acquisition Officer to the State Government. On the basis of the said report, the State Government was satisfied that the lands of Village: Chharodi specified in the notification published under Section 4 of the Act were needed for the public purpose of construction of Canal under Narmada Project. Therefore, a declaration under Section 6 of the Act was made, which was published in the official gazette on March 16, 1993. The interested persons were thereafter served with the notices for determination of compensation payable to them. The claimants appeared before the Special Land Acquisition Officer and claimed the compensation at the rate of Rs.100/- per square metre. However, having regard to the materials placed before him, the Special Land Acquisition Officer by his award dated July 30, 1994 offered compensation to the claimants at the rate of Rs.1.50 Paise per square metre. The claimants were of the opinion that the offer of compensation made by the Special Land Acquisition Officer was totally inadequate. Therefore, they

submitted applications under Section 18 of the Act requiring the Special Land Acquisition Officer to refer to their cases to the Court for the purpose of determination of just amount of compensation payable to them. Accordingly, the references were made to the District Court, Ahmedabad, where they were numbered as Land Acquisition Reference Nos.326 of 1996 to 345 of 1996.

3. On behalf of the claimants, witness Alefkhan Alamkhan was examined at Exhibit 46. The witness claimed that the lands acquired were irrigated lands and that each claimant was able to grow two to three different crops in a year. According to the said witness, each claimant was able to raise crops of paddy, cotton, til, millet, etc. and was earning net income of Rs.30,000/- per year per *vigha* from the sale of agricultural produces. The witness relied upon the previous award of the Reference Court relating to the lands of Village: Sanand and claimed that on the basis of that award, the claimants were entitled to enhanced compensation. The said witness also produced another previous award of the Reference

Court relating to the lands of Village: Kunvar in order to substantiate his claim for enhanced compensation, but the same was not exhibited by the Reference Court at all.

3.1 Though this witness was cross-examined by the learned counsel for the acquiring bodies, nothing substantial could be elicited.

3.2 On behalf of the Acquiring Authorities, no witness was examined.

4. During the course of hearing, it was noticed that Village: Chandrasan was situated near Village: Chharodi and the land of Village: Chandrasan was acquired in L.A.Q. No.30 of 1992. It was also noticed that the award made by the Special Land Acquisition Officer was challenged before the District Court in Land Acquisition Reference No.1512 of 1996 and the District Court had awarded Rs.18/- per square metre as compensation to the claimant. However, it is relevant to notice that the said award was also not produced on record of the case.

5. On the basis of the evidence adduced by the claimants, the Reference Court has awarded additional compensation to the claimants at the rate of Rs.30/- per square metre by the impugned award giving rise to the above numbered appeals.

6. This Court has heard Ms.Mini Niar, learned Assistant Government Pleader for the appellant, and Mr.Yatin S. Soni, learned counsel for the original claimant(s) in each appeal, at length and in great detail. This Court has also considered the paper-book supplied by the learned counsel for the claimants, which includes oral as well as documentary evidence adduced by the parties before the Reference Court.

7. From the impugned judgment as well as the evidence on record, it is evident that the lands, which were acquired in the instant cases from Village: Chharodi, were situated near Village: Gokalpura and Village: Sanand. In view of the observations made by the Reference Court in paragraph 11 of the judgment, this Court is of the opinion that

grant of additional amount of compensation to the claimants at the rate of Rs.30/- per square metre cannot be regarded as arbitrary or unreasonable so as to warrant interference of this Court in the instant appeals. It may be mentioned that Village: Chharodi falls within the Industrial Zone set up in the area. By the time the notification under Section 4(1) of the Act was published in the official gazette, several industries had come up and, therefore, the determination of compensation payable to the claimants at the rate of Rs.30/- per square metre can in no circumstances be regarded as on higher side. Under the circumstances, this Court finds that a just award has been passed by the Reference Court and as no ground is made out by the learned counsel for the appellant to take a view different than one which is taken by the Reference Court on appreciation of evidence, the appeals, which lack merits, deserve to be rejected.

7. For the foregoing reasons, all the appeals fail and are dismissed. There shall be no orders as to costs. The Registry is directed to draw decree in

terms of this judgment immediately.

(J. M. Panchal, J.)

Rajendra